

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANLV CAB COMPANY, A NEVADA
CORPORATION D/B/A A NORTH LAS
VEGAS CAB COMPANY, AND MAGDI
KHOUDOURI, AN INDIVIDUAL,
Appellants,

vs.

VANESSA REID, AS GUARDIAN AD
LITEM FOR CHRISTIAN REID, A
MINOR, AND TIFFANY REID,
Respondents.

No. 51083

FILED

JUL 30 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order, certified as final under NRCP 54(b), dismissing a third-party complaint. Eighth Judicial District Court, Clark County; J. Charles Thompson, Senior Judge.

Respondent Vanessa Reid, as guardian ad litem for her minor daughter, Christian Reid, filed a personal injury action against appellants based on injuries the daughter received in a car accident. At the time of the accident, Vanessa Reid's older daughter, respondent Tiffany Reid, was driving the car in which Christian was a passenger, and appellants filed a third-party complaint against Tiffany asserting claims for contribution and indemnity.¹ Tiffany answered the third-party complaint and asserted a third-party counterclaim against appellants for contribution and indemnity.

¹The third-party complaint also included claims for negligence and negligence per se based on damage to appellants' vehicle, but according to appellants, those claims have been settled.

Tiffany entered into a settlement of any claims Christian or Vanessa might have against her, tendering the \$15,000 limits of her auto insurance policy. The district court granted her motion for a determination that the settlement was in good faith and dismissed appellants' third-party complaint against Tiffany, certifying the order as final under NRCP 54(b). Appellants then appealed.

Appellate jurisdiction

When our review of the documents before us revealed a potential jurisdictional defect, we directed appellants to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it did not appear that the challenged order completely removed a party, as it did not formally resolve Tiffany's third-party counterclaim. In response to our order to show cause, appellants argue that Tiffany's counterclaim was rendered moot when appellants' third-party complaint was dismissed, and therefore, the district court's "technical" omission of any reference to Tiffany's third-party counterclaim did not defeat jurisdiction under KDI Sylvan Pools v. Workman, 107 Nev. 340, 810 P.2d 1217 (1991).

In KDI Sylvan Pools, we examined whether a counterclaim was necessarily rendered moot by the district court's summary judgment on the original complaint. 107 Nev. at 342-43, 810 P.2d at 1219. As appellants correctly note, the implication of KDI Sylvan Pools' discussion is that, had the counterclaim been necessarily rendered moot, formal written resolution of the counterclaim would not have been necessary. But as in KDI Sylvan Pools, the third-party counterclaim in this case was not necessarily rendered moot. Appellants contend that Tiffany's counterclaim was limited to seeking contribution or indemnity for any finding of liability based on appellants' third-party complaint, so when the

third-party complaint was dismissed, the counterclaim was rendered moot. But Tiffany's counterclaim was not so limited. Rather, the counterclaim asserted a right to contribution or indemnity should Tiffany be found liable for any damages to the plaintiff based on the original complaint. Therefore, the dismissal of appellants' third-party complaint against Tiffany did not bar her counterclaim for contribution or indemnity against appellants to recover sums paid by Tiffany to the plaintiff.

Despite their contention that a formal resolution of Tiffany's third-party counterclaim was unnecessary, appellants nevertheless obtained a written order dismissing the counterclaim. And the district court again certified its order as final under NRCP 54(b).² Accordingly, jurisdiction in this court is proper, and we proceed to the appeal's merits.

Good-faith settlement determination

Appellants maintain that the district court abused its discretion in approving Tiffany's settlement as in good faith. Appellants first argue that a good-faith determination was premature, as it was granted early in the case and discovery was not complete. They next contend that Tiffany did not meet her burden of demonstrating that, considering the factors identified in this court's precedent, the settlement was in good faith. Finally, appellants assert that the district court refused to consider relevant and, in appellants' view, more important factors

²Although the district court's language concerning NRCP 54(b) was not as clear in the order dismissing Tiffany's counterclaim as in its earlier order approving the good faith settlement and dismissing appellants' third-party complaint, we conclude that, considering the two orders together, compliance with NRCP 54(b)'s requirements has been sufficiently demonstrated to permit this appeal to proceed.

impinging on the decision of whether the settlement was in good faith. Respondents counter that the district court properly exercised its discretion in light of all the facts available to it.

In Velsicol Chemical v. Davidson, this court rejected any particular factor as decisive in a good-faith determination. 107 Nev. 356, 811 P.2d 561 (1991). Rather, a “determination of good faith should be left to the discretion of the trial court based upon all relevant facts available, and that, in the absence of an abuse of that discretion, the trial court’s findings should not be disturbed.” Id. at 360, 811 P.2d at 563. Later, in Doctors Company v. Vincent, we identified several factors that could be relevant to a good faith determination, while reiterating Velsicol’s rejection of any particular factor or list of factors as controlling and instead focusing on “all relevant facts.” 120 Nev. 644, 652, 98 P.3d 681, 686-87 (2004) (quoting Velsicol, 107 Nev. at 360, 811 P.2d at 563). In particular, some of the factors identified as potentially helpful to a good-faith analysis included the amount paid, the settling defendant’s insurance policy limits and financial condition, the existence of collusion aimed to injure nonsettling defendants, and “the relative liability permutations of the particular contribution or indemnity action known to [the court], including the strengths and weaknesses of the contribution or indemnity claims.” Id. at 651-52, 98 P.3d at 686-87 (citing In re MGM Grand Hotel Fire Litigation, 570 F. Supp. 913, 927 (D. Nev. 1983)).

Here, the record reflects that the district court considered the amount paid by Tiffany, Tiffany’s insurance policy limits, and her financial condition. The record also indicates that the district court was cognizant of the strength of appellants’ claims for contribution and indemnity, because in its analysis, the court assumed that appellants

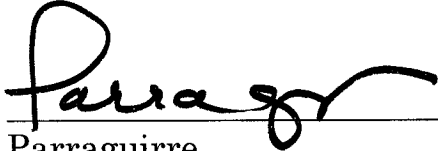
would prevail on at least a significant part of their claims. All of these factors were appropriate and indicate that the district court properly exercised its discretion.

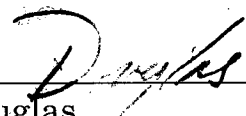
Appellants, however, assert that Tiffany and her mother and sister engaged in fraud and collusion in entering into the settlement agreement. As support for this assertion, appellants point to the inadequacy of Tiffany's insurance policy compared to the damages Christian has incurred, and they speculate that Tiffany may have had additional insurance proceeds available from her mother's auto or homeowners' coverage. They assert that additional information concerning possible collusion is necessary and that the district court acted prematurely in determining that the settlement was in good faith.


Having reviewed the record, we conclude that appellants have not demonstrated that the district court abused its discretion in determining that Tiffany's settlement was in good faith. Tiffany's original motion was denied without prejudice as premature, to provide appellants with additional time to obtain the information they deemed necessary. Tiffany's renewed motion, following completion of written discovery with no attempt by appellants to conduct depositions, was granted. Written discovery apparently did not reveal any additional insurance proceeds available to Tiffany, as none is specified in appellants' briefs to this court or the district court. Also, respondents persuasively assert that Tiffany, an 18-year-old with limited financial resources, reasonably maintained the

minimum auto insurance limits set by Nevada law.³ We perceive no abuse of discretion in the district court's determination, and we therefore

ORDER the judgment of the district court AFFIRMED.


_____, J.
Parraguirre


_____, J.
Douglas


_____, J.
Pickering

cc: Chief Judge, Eighth Judicial District
Hon. J. Charles Thompson, Senior Judge
Lansford W. Levitt, Settlement Judge
Hutchison & Steffen, LLC
Kolias Law Offices
Mills & Associates
Eighth District Court Clerk

³To the extent that appellants argue that these limits are inadequate, they must present their contentions to the Legislature. In this regard, we note that the minimum auto insurance policy limits set forth in NRS 485.185 (and before a 1993 amendment, in NRS 485.105) have not been adjusted in over 20 years.